

1958

November 17

NEW HAMPSHIRE LAW LIBRARY

OCT 01 1998

CONCORD, N.H.

Richard N. Peale, Director  
Division of Purchase and Property  
State House  
Concord, New Hampshire

Dear Mr. Peale:

This is in reply to your letter of November 7, 1958, in which you refer to RSA 8:21 and state that your office has maintained a central warehouse operation for office materials and supplies for many years under the authority of this statute. You further state that necessary supplies for the Purchasing Division have been charged against this account, equipment has been purchased and personal services required in the operation of the account have also been paid for from it, although no budget has ever been submitted and no appropriation for such items for the Purchasing Division has ever been made. When a department or institution requisitions supplies under this statute you add 10% to the cost of the items as a charge against the departmental or institutional appropriation and the above-mentioned items required by the Purchasing Division are paid for from this 10% surcharge. You request our opinion as to whether this procedure is legal under the above statute.

In our opinion this procedure is not proper. There is nothing in RSA 8:21 which authorizes a surcharge of 10% or any other percentage and nothing which authorizes the Division of Purchase and Property to charge off its supplies against this account. In brief, there is nothing in RSA 8:21 to indicate that the Division of Purchase and Property is to be on any different standing with respect to this account than any other department or agency, and, accordingly, in the absence of an appropriation to cover your requirements in this regard you cannot simply meet your needs from this account and add an extra charge on to the bills submitted to other departments to cover your costs.

C O P Y

Richard N. Peale, Director

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You ask for recommendations to correct the situation in the event we found the present procedure to be improper. It seems to us that additional legislation along the lines of the authority conferred on the State Liquor Commission by RSA 177:4 would probably serve your purposes. If we can be of assistance in that regard please feel free to call on us at any time.

Sincerely yours,

John J. Zimmerman  
Assistant Attorney General

JJZ/lr